

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 98-0723**

Sales and Use Tax

Calendar Years Ended 12/31/94, 12/31/95, and 12/31/96

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer, in a letter dated November 20, 1998 protested the penalty assessed for the underpayment of use tax on an audit completed on August 20, 1998. Taxpayer utilized a direct pay permit to purchase items exempt from tax. 45 IAC 2.2-8-16 (c) in part states that a direct pay permit is not a declaration that the issuer is entitled to exempt purchases, but is rather a declaration that the issuer will remit use tax on all purchases that have sales tax due at the point of purchase. Taxpayer made purchases of clearly taxable items such as fixed assets, publications, shop supplies, janitorial supplies, maintenance supplies, office supplies, and research and development supplies, but failed to self-assess use tax.

I. **Tax Administration** -Penalty

**DISCUSSION**

Taxpayer was assessed a negligence penalty for failure to remit use tax on clearly taxable items used in Indiana. The assessment resulted in more than fifty percent (50%) of use tax not accrued nor remitted.

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Taxpayer's argument states that the additional tax due is the result of differences in interpretation of the Indiana Tax Statutes and not the result of any willful disregard of the Indiana Sales and Use Tax laws. Taxpayer also cites its past and current good faith efforts to use care and prudence in order to comply with Indiana's tax laws.

The Legislature has imposed penalty and interest charges to encourage compliance with the tax laws. Taxpayer was negligent in failing to self-assess use tax on clearly taxable items.

### **FINDING**

Taxpayer's protest is denied.

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